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**Public Involvement in the DEQ  
Recommendations from the Environmental Advisory Council**  
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**Introduction**

Public involvement in governmental decision-making is a basic tenet of democracy. The Department of Environmental Quality (DEQ) should provide the opportunity for effective public involvement in DEQ activities. Effective involvement only occurs when the public understands and has a meaningful role in shaping the decisions that will affect their quality of life.

This document sets forth recommendations of the Environmental Advisory Council (EAC) to assist the DEQ in providing opportunities for effective public involvement. The term “public” is used in its broadest sense to include anyone who may have an interest in, or be affected by, a DEQ program or decision.

A draft of these Recommendations was submitted to the public and DEQ employees for comment on September 2, 2003. A total of 59 comments were received through October 31. The DEQ provided a Report to the EAC on those comments that included a summary of, and the DEQ’s perspective on, each comment. That Report was considered by the EAC at its meeting in November and changes made to the Draft Recommendations accordingly.

In December, the EAC considered the DEQ’s draft plan to implement these recommendations. These Recommendations were adopted in February 2004 and should be read in conjunction with the DEQ’s Report to the EAC, dated November 19, 2004 and the DEQ’s Implementation Plan, dated February 2004.

The EAC recognizes that the task of improving public involvement in governmental activities can never be considered complete. These Recommendations reflect an important first step in considering and improving the overall public involvement program of the DEQ. But more work needs to be done. These Recommendations focus on the processes by which the DEQ can better encourage involvement by all segments of the public and actions to improve the information before the DEQ, and hence the quality of decisions. These Recommendations include a process to track the DEQ’s efforts to improve public involvement. An area for possible future consideration is how to more directly evaluate the success of those efforts.

## Principles of Effective Public Involvement

The EAC believes that effective involvement should be based on the following principles:

The **decision-making process** should foster fairness and understanding.

It should be transparent, occurring in steps and in a time frame that is understood and predictable by involved parties.

The decision-maker should be readily identifiable before the decision is made.

Decisions should be based on the technical merits of a proposal and decision-making criteria established by law.

The basis for the decision should be available to the public, and the DEQ is accountable for the decision.

The public should have the opportunity for a **meaningful role** in the DEQ's activities:

The public should be able to contribute to a decision on a proposed program or activity that could affect their quality of life.

Consistent with state law, the public should have access to information and the evaluation of information involved in the decision.

The DEQ should be able to explain its decision and how relevant and timely comments were considered in that decision, thereby, affording an involved participant the ability to ascertain that his or her interests were heard and considered.

## Assessment

The EAC recognizes that the DEQ has an extensive public involvement program. Much effort is focused on providing public involvement opportunities, and the DEQ undertakes a variety of mechanisms to facilitate public input into DEQ activities. These mechanisms range from the extensive listing of pending DEQ decisions and public comment opportunities in the DEQ Calendar to extensive public outreach currently done on significant permit decisions in a variety of programs. In addition, the DEQ has long involved affected interests in work groups and advisory committees during the formative stages of administrative rules packages and policy development. DEQ staff are recognized for their personal commitment to responding to citizen concerns, answering questions, and following up on issues.

There are, however, opportunities for improvement. Most environmental statutes provide for formal public involvement opportunities prior to a regulatory decision. These opportunities often include a published notice of a proposed decision, a period for the public to submit comments, and a public meeting or hearing. However, legal public

notice of a pending decision may not be the most effective way of reaching the potentially affected or interested public. Further, formal, statutorily required public involvement mechanisms are sometimes not adequate for significant or controversial decisions and need to be tailored accordingly.

In summary, the EAC views the DEQ as an agency that is committed to and values public involvement and one that can improve its public involvement techniques. The recommendations contained in this document are designed to support and expand the DEQ's efforts. They are meant to further the opportunity for public participation as an element in the DEQ decision-making process and to foster a spirit of mutual trust, confidence, and openness between the DEQ and the public.

## **Recommendations**

### **A. The culture of public involvement**

1. The DEQ should enhance its efforts to train staff on how to work with the public, communication skills, conflict resolution, and public meeting facilitation. The DEQ should also consider employing specialists who can bring experience and expertise to these activities.
2. DEQ management should recognize the value of staff participation in a professional capacity as members of professional organizations and in environmental projects in their local communities. Staff should also feel enabled to be visible in their community in a personal capacity, keeping in mind the need to avoid conflicts of interests or inappropriate use of authority through their affiliation with the DEQ.
3. The DEQ should invest in developing and fostering awareness among its staff that there is value in bringing multiple perspectives to bear when examining an issue. Staff should recognize that the public may have important local knowledge and valid technical or non-technical concerns related to the issue at hand.
4. The DEQ should encourage leadership development among its staff and foster interaction among emerging leaders in the DEQ and organizations involved in DEQ activities.

### **B. Timing and opportunity**

The DEQ undertakes a myriad of activities including promulgating administrative rules, issuing permits and other authorizations, providing education and training, conducting inspections, and undertaking enforcement actions to ensure compliance with legal requirements. Even within a specific set of activities, such as issuing permits, defining characteristics can vary by program. These characteristics include the number of applications received, the decision-making criteria, statutorily required procedures, the type of the technical information involved, the nature of public concern, and the environmental and program effects of the decision. As a result, the following recommendations are necessarily general. They are set forth as a template for DEQ program managers to use in evaluating the public involvement

components of their programs and in identifying those areas that can be best addressed to most efficiently and effectively make improvements.

1. Individual programs within the DEQ should review their decision-making processes to identify earlier opportunities for public involvement. This could include the potential for earlier notification of pending actions—such as the receipt of permit applications—and encouraging applicants to voluntarily involve the public as early in the process as feasible. The EAC recognizes that such early involvement mechanisms will not be appropriate or necessary for all decisions within a particular program. Individual programs should develop criteria to identify the types of decisions for which such mechanisms are appropriate.
2. The DEQ should notify the public of pending actions or activities early enough to obtain and evaluate information, formulate and express opinions, options and suggestions prior to DEQ action.
3. The DEQ should review and improve its mechanisms for providing notice of pending decisions, including the feasibility of individual notice to citizens directly affected by significant site-specific permit decisions. The DEQ should review opportunities for improving distribution to the press of announcements related to important issues and decisions.
4. DEQ program managers should strive to provide meaningful public involvement opportunities appropriate for each situation considering the issues, locations, potential environmental and human health implications, potential for controversy, specific needs of the public and the DEQ, and the time frame for decision-making. For significant decisions, or when there is widespread public interest, the DEQ should use multiple approaches (e.g., meetings, hearings, workshops) for involving the public. The common element should be interaction between DEQ staff and the affected public. In conducting public forums, the DEQ should adopt specific practices that encourage interaction with the public. These include introducing staff present and allowing a small amount of time for general comments to the DEQ. Introducing staff will facilitate one-on-one communication. Allowing time for general comments will provide a new opportunity to convey information to the DEQ.
5. The DEQ should provide policy, program, and technical information to the public at the earliest practicable times and throughout the decision-making process. This information should be provided to enable potentially affected or interested persons to make informed and constructive contributions to decision-making. The DEQ should cooperate with and support efforts to provide general training for citizens about how to participate in DEQ decision-making processes and basic primers on common permit-related issues such as those in the air and water quality programs. The DEQ should also develop and implement mechanisms to more effectively convey information about specific proposals before the DEQ. This information should include the facts of the proposal and the opportunities for individuals to participate in the decision-making process.

6. The DEQ should enhance coordination and communication with local units of government, including Native American tribes. Special attention should be paid to local governmental action acting under DEQ programs (e.g., soil erosion and sedimentation control) and in related program areas (e.g., wetland protection). Better coordination could make more efficient use of the resources of both the local unit of government and the DEQ in informing the public of proposals of local interest. The DEQ should provide early informal notification of local officials of controversial projects. Likewise, local government should be encouraged to provide early notice to the DEQ of projects that might be of interest to the DEQ. The DEQ should look for opportunities to provide general education for local officials on environmental topics, such as through training seminars sponsored by governmental associations.
7. The Internet provides an excellent opportunity to improve public participation. The DEQ should make its web page more user friendly so that people can find the information they need. In addition, the web site should be organized to facilitate public involvement on pending proposals and decisions. The DEQ should provide electronic forms on its website to allow the public to submit comments and observations for DEQ consideration/action.
8. To further facilitate public understanding and involvement, the DEQ should expand and improve current programs that assist the public in navigating the DEQ decision-making process. While all DEQ employees have this responsibility to some extent, and should be responsive to members of the public needing assistance, the DEQ should consider formalizing a citizen assistance function in some identifiable manner. This could be analogous to the small business assistance function.
9. The DEQ should ensure that all segments of the public have fair and appropriate access to decision-makers within the DEQ and that no member of the public is favored over another.
10. The DEQ should inform concerned members of the public of the findings and rationale behind decisions. The nature of how this information is provided can be tailored to the nature of the decision, and the number and identity of concerned parties.
11. The DEQ should develop and implement a process for notifying the public of contested cases and proposed settlements in contested case proceedings.

### C. Citizen Advisory Board

During its discussions on how to improve public participation in the DEQ, the EAC recognized there is an interest among some members of the public for the creation of a citizen commission overseeing operations of the DEQ. Many EAC members did not view a citizen commission as a feasible recommendation given the practical difficulties of creating, and the expense involved in administering, a new commission with oversight authority. Instead, the EAC focused on the function of providing an open forum for public comment. The EAC recognizes that it is not presently structured for that purpose and therefore considered whether to recommend the

creation of another citizen board to provide such a forum and to further advise the DEQ on policy issues. The EAC's discussion did not settle on a recommendation on this question, but is offered to inform a decision by DEQ Director Steven E. Chester. Individual EAC members tended to express one of three general perspectives:

**A new citizen advisory board should be created:** While recognizing the actions the DEQ has and is taking to improve public involvement, a citizen advisory board offers benefits that cannot be obtained solely from within the DEQ. A citizen advisory board should provide a regularly scheduled forum for public comment and the open discussion of issues, both general and pertaining to specific sites, and to advise the DEQ Director on policy issues. Such a forum would provide a voice in environmental policy to citizens who are not represented by a formal interest group or organization. It would provide a level playing field for involvement in environmental decision-making. By providing openness in the discussion of environmental issues, the citizen advisory board would improve the credibility of the DEQ. Board members could also serve as ambassadors for the DEQ.

**A new citizen advisory board should not be created:** The DEQ has already taken steps to improve public involvement in its activities and, based on the EAC's recommendations, further improvements are underway. The Director's public meetings around the state provide a means to communicate with the highest authority in the DEQ. There is no clear need for an additional public forum. A new citizen advisory body would require additional expenses which are difficult to justify during this time of reduced governmental budgets. The role of a new citizen advisory body in the DEQ's decision-making process may not be clear to the public, thereby creating false expectations as to the board's authority. The results of the current actions to improve public involvement should be assessed before the significant step of creating a new forum is taken.

**The role of the EAC should be modified to provide a forum for public input:** As presently structured, the EAC is too large to provide a forum for public input. However, the Director could ask a subgroup of the EAC to serve as a forum for public input either on a set schedule or when necessary on a case-by-case basis. Using the EAC in this way would offer some of the benefits of a more formal separate public forum without all of the costs. Hearing what is on the public's mind would provide a means of identifying emerging issues for consideration by the full EAC and the Director. This would bridge the differences between a wholly new public forum and none at all. It could be a first step, taken without investing in significant costs during tight budget times, while preserving the ability to move toward or away from a more formalized approach as experience determines.

#### D. Implementation

The DEQ should develop a written plan describing the steps it will take to implement these recommendations. Verbal reports on significant activities under that plan should be provided to the EAC monthly. The DEQ should provide a written summary of progress to the EAC every six months for two years.

## **ENVIRONMENTAL ADVISORY COUNCIL MEMBERSHIP**

Ms. Chris Bates – General Motors Corporation  
Mr. Skiles Boyd – Detroit Edison  
Mr. Barry Cargill – Small Business Association of Michigan  
Mr. Steven Chester – Department of Environmental Quality  
Ms. Sally Churchill – University of Michigan  
Mr. Wil Cwikiel – Tip of the Mitt Watershed Council  
Dr. Phillip Davis – Michigan State University  
Ms. Marlene Fluharty – Americana Foundation  
Mr. Charles Griffith – Ecology Center  
Mr. Chuck Hersey – Southeast Michigan Council of Governments  
Mr. Andrew Hobbs – Ford Motor Company  
Mr. Don Inman – Michigan Resource Stewards  
Mr. Patrick Krause – Environmental Health & Laboratory Services, Kalamazoo County  
Ms. Sara Lile – City of Detroit  
Mr. Steve List – Mead Westvaco  
Mr. Frank Mortl – Michigan Oil and Gas Association  
Mr. Cortland Overmyer – City of Grand Rapids  
Ms. Lana Pollack – Michigan Environmental Council  
Mr. Delbert Rector – NTH Consultants, Ltd.  
Mr. Andrew Such – Michigan Chemistry Council  
Ms. Maureen Kennedy Templeton – Grand Traverse County Drain Commissioner  
Dr. Janet Vail – Grand Valley State University  
Mr. Sam Washington – Michigan United Conservation Clubs  
Mr. Wayne Wood – Michigan Farm Bureau  
Mr. Paul Zugger – Public Sector Consultants